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IN THE

Supreme Court of the United States

OCTOBER TERM, 1942.

No. 2.

WILLIAM SCHNEIDERMAN

v.

THE UNITED STATES OF AMERICA.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

SUPPLEMENTAL BRIEF FOR PETITIONER.

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The Government, in this Court, seeks to sustain the cancellation of Schneiderman's naturalization on the basis of proof that is not in the record and on the basis of charges that were not made against him in the Complaint herein.

The Proof.

1. With respect to what constitutes the record.

In pages 1 to 6 of the Government's Reply Brief it seeks to justify its use of excerpts from exhibits which are not part of the printed record before this Court. This use was criticized in the petitioner's Reply Brief and the

astounding extent of such departure from the record was pointed out in Appendix II to petitioner's Reply Brief.

It is clear that the more than 360 quotations from and references to excerpts from exhibits upon which the Government, in this Court, bases its case almost in its entirety, are not part of the record before this Court. In fact, it was never intended by the Government that such outside excerpts should be considered, even by the trial court, as part of the Government's case against the petitioner.

The governing rule of the Circuit Court of Appeals for the Ninth Circuit is quite clear and categorical. It says (Rule 19, Subdivision 6):

> "The appellant shall * * * designate the parts of the record which he thinks necessary for the consideration thereof * * *. The adverse party * * * may designate * * * additional parts of the record which he thinks material * * *. If parts of the record shall be so designated by one or both of the parties * * * the clerk shall print those parts only; and the court *will consider nothing* but those parts of the record * * *. If at the hearing it shall appear that any material part of the record has not been printed, the appeal may be dismissed or such other order made as the circumstances may appear to the court to require. If the appellee shall have caused unnecessary parts of the record to be printed, such order as to costs may be made as the court shall think proper." (Italics ours.)

[The rules of the Circuit Court of Appeals for the Ninth Circuit in this respect are similar to the rules of this Court. See paragraph 9 of Rule 13 of the Revised Rules of the Supreme Court (Vol. 11, U. S. Supreme Court Reports Digest, page 15).]

It is obvious that under this rule the *printed* record before the Circuit Court of Appeals was intended to be

the *entire* record; and the rule plainly stated that the Court would consider nothing but those parts of the record which were so designated and printed.

Pursuant to this rule, both the petitioner and the Government designated the excerpts from exhibits that are now in the printed record and none other. [See paragraph 3 of appellant's designation (Rec. 903) and subdivisions (2) and (3) of the Government's designation (Rec. 902).] It is quite clear that the appellant's final "request for and designation of record" dated October 19, 1940, which is found in the record at page 903, superseded his prior request, dated August 5, 1940, found in the record at page 59, because the record actually printed by the Clerk and used by the parties in the Circuit Court of Appeals was the record printed in accordance with the final designation of the appellant, dated October 19, 1940.

The Government, in its Reply Brief (p. 4), suggests that because the original exhibits in their entirety were filed by the clerk of the court below in the office of the clerk of this Court and certified to as being the original exhibits, the result was to make the entire exhibit a part of the record. Obviously, the certificate of the Clerk of the court below that all of the original exhibits which had been transmitted by him to the clerk of this Court "are the exhibits and all of the exhibits filed in my office" has no bearing on the matter. That certificate shows who has *possession* of the exhibits, not what part of the exhibits are in the record.

Nor is there anything in the contention that the court below, by referring to the fact that the evidence consisted of "books, pamphlets and writings" (Rec. 916, see Government's Reply Brief, p. 4), thereby showed that it was taking into consideration in its opinion excerpts from the

books, pamphlets and writings outside of the excerpts which are part of the record, and, in so doing, was violating the express statement of its own rule that "the Court will consider nothing but those parts of the record" which are printed.

Further, Rule 18 of the court below, to which the Government adverts in its Reply Brief (p. 5) has no bearing on the matter. We are not dealing here with a question of "models or diagrams or exhibits of material", which was the subject matter of Rule 18. Obviously an inventor's models or an engineer's blue print diagram, or an exhibit of cotton cloth or of other material, forming part of the evidence, must be given treatment different from that given to an excerpt from a document. We do not have any evidence of that type in this case.

As a matter of fact, it is clear that the Government never intended to establish its case except upon the excerpts which are printed in the record, which excerpts were specially marked in evidence at the time of the offering of the document in evidence and given a special number with the letter "A". Upon the first offering of one of these books, the following colloquy took place (Rec. 109):

> "(Document marked 'Government's Exhibit No. 6.')
>
> Mr. Hennessy: We have made certain excerpts, Mr. Andersen, from the book which we have offered in evidence for the purpose of convenience, of which we will furnish you a copy for facilitating the examination of the book in the preparation of briefs, *so that you will know what particular part of the book we rely on.* You can select such parts as you desire in your brief.
>
> Mr. Andersen: You are introducing the book in evidence, and will supply us with excerpts?
>
> Mr. Hennessy: Yes.

The Court: Either side may use any part or portion of the book.

Mr. Andersen: We have no objection to that.

(The excerpts from 'Programme of the Communist International' were marked 'Government's Exhibit No. 6A.')" (Italics ours.)

In other words, the Government, at the trial, made it clear to the court and to the defendant Petitioner that the Government relied only on those parts of pamphlets and documents as to which it had made excerpts which it would introduce in evidence and have marked in lieu of using the entire pamphlet or document.

In pursuance of the policy so announced, the Government, at the time of offering in evidence each and every pamphlet, also offered in evidence excerpts therefrom, to be marked by the same number with the capital letter A, excepting only in the case of Exhibit 19 in evidence (Rec. 273) and Exhibit 27 in evidence (Rec. 276). With respect to Exhibit 27, a comparatively short document, the whole Exhibit was printed in the record. With respect to Exhibit 19, it does not appear why the Government's policy of offering excerpts only was departed from, but apparently the Government did not place any reliance on Exhibit 19, because, subsequently, it did not designate Exhibit 19 either in part or in whole to be a part of the record. (See Government's designation, Rec. 902.) Nor is any reference made to this Exhibit 19 either in the body, or in the Appendix C, of the Government's Main Brief.

We think it can be said with claim to propriety that under the statement of Government counsel at the trial, and under the method of proof, in reality, only those excerpts from the documents are actually in evidence which the Government had especially marked, except in the one

case (Ex. 27) where the entire document was offered and printed without an excerpt being simultaneously offered.

It is, therefore, clear, we submit, that the charge which we made at page 3 of our Reply Brief and which was made on oral argument and which was documented by Appendix II of our Reply Brief, pages 31 to 42, that the Government's case before this Court was largely built up on matters entirely outside of the record, is fully sustained. The *printed record* is the complete and full record before this Court and it is the full and complete record upon which the court below acted.

2. With respect to Exhibit 26 for Identification.

In Petitioner's Reply Brief (p. 4) we stated that this exhibit was never in evidence. In its Reply Brief (pp. 6 and 7) the Government takes issue with this statement.

It is clear that this Exhibit 26 for identification, upon which the Government so largely relies in this Court, is not in evidence and was never intended to be put in evidence.

The entire record with respect to this exhibit is as follows. It was first produced by the Government in connection with the testimony of the policeman Hynes, whose testimony is as follows (Rec. 273, 274):

> "Mr. Mercado: Q. I will show you a pamphlet here, and ask you if you have ever seen that pamphlet before. *Do not testify in connection with that.*
>
> Mr. Andersen: Is that a new one?
>
> Mr. Mercado: I am just asking if he has ever seen it before.
>
> The Witness: A. Yes, I have seen it before.
>
> Mr. Mercado: Q. I will ask you if you have seen this before and under what circumstances and where.
>
> A. Yes, I have seen this pamphlet entitled, 'Statutes, Theses and Conditions of Admission to the Communist International, Adopted by the Second

Congress of the Communist International July 17th to August 7th, 1920.' This document was taken in a raid from the Communists in the Bryson Building, on October 16, 1928, when we arrested several members of the Communist Party. I have seen several other copies of this. *However, this book was not widely circulated or sold.* I have taken some off of several leaders, at different times of their arrest. This cover on the outside was put on by myself to preserve the book.

Mr. Mercado: I will ask that the pamphlet entitled, 'Statutes, Theses and Conditions of Admission to the Communist International,' be marked Government's Exhibit for identification.

The Court: It may be marked.

('Statutes, Theses and Conditions of Admission to the Communist International, July 17 to August 7, 1920,' was marked 'U. S. Exhibit No. 26 for Identification.')'' (Italics ours.)

Subsequently, counsel for Petitioner (in Petitioner's Reply Brief, p. 4, we erroneously stated that this was counsel for the Government) conducted the following examination of Schneiderman (Rec., p. 835).

''Q. Now, referring to Exhibit No. 26 in evidence, 'Statutes, Theses and Conditions of Admission to the Communist International,' which was put in evidence during the testimony of Mr. Hynes, do you know if that was ever published by the Communist Party of the United States of America, or distributed by them? A. I have no recollection of this particular edition. There is nothing to identify where or how it was published. I do not know of any work of this kind being published by the Party.

Q. Did you ever see this being sold, for instance, in any of the so-called bookshops to which Captain Hynes made reference? A. Not that particular edition. I have no doubt that possibly a pamphlet

called, 'The Statutes and Resolutions of the Communist International' were sold there; but I do not believe that this was ever printed in the country; it looks to me like an English edition, printed in England."

The foregoing is the entire record as to the use of this Exhibit 26 for identification. It makes it clear why the exhibit was not offered in evidence. A sufficient foundation for so offering it had not been laid. With respect to every other exhibit in the way of writings, pamphlets, etc., which the Government offered in evidence after having the exhibit marked for identification, the Government asked a question, and obtained a favorable answer, designed to show that the pamphlet or document in question was an official publication and generally circulated as such. As a typical example, with respect to Exhibit 19 offered in evidence immediately before the offering of Exhibit 26 for identification, the witness was asked if he knew of his own knowledge that the Government's Exhibit 19 for identification "was distributed as one of the official pamphlets of the Communist Party" (Rec. 273). Upon getting an affirmative answer, the document was offered in evidence. But with respect to Exhibit 26 for identification, the witness, however, testified "This book was not widely circulated or sold". Apparently, confronted with this answer, the Government did not feel that it had established a sufficient basis for the document as being an official document to justify offering it in evidence.

It is evident that Government counsel, at the trial, anticipated that he would not be able to lay a sufficient foundation for the admission into evidence of Exhibit 26 for identification—for, with this in mind, in his opening references to the pamphlet, he cautioned the witness as follows: "Do not testify in connection with that" (see quoted testimony above).

As further showing that the fact that Exhibit 26 was not offered in evidence by the Government was not inadvertent, but was intentional, counsel for the Government apparently had not prepared and accordingly did not offer any excerpts from the exhibit as being the excerpts therefrom upon which the Government relied, a practice which, as above shown, the Government's attorney had announced he would follow upon the offering of exhibits in evidence and which, in accordance with such announcement, he had followed with respect to every one of these documents and pamphlets offered in evidence (except Ex. 19, which as we pointed out above, he apparently did not intend to use, and Ex. 27 which was so short that it was printed in full). A reference to the index of plaintiff's exhibits found at pages ii and iii of Volume I of the Record shows that the Government's exhibits upon which it relied and which it had incorporated in the record in the Court below are in each and every case the excerpts only from the documents which excerpts had been marked with a number and the capital letter A at the time of the offer of the document in evidence, plus Exh. 27, printed in full.

We do not think that the subsequent short examination of petitioner by his own counsel, quoted above, in which he erroneously referred to the document as being in evidence, had the effect of putting it in evidence. The two California cases upon which the Government relies in its Reply Brief, page 7, and other similar cases, are not in point. They are cases in which *both parties at the trial* treated a document as in evidence, and *one of them relied upon it, at the trial, as an important part of his case,* although inadvertently it had not been marked in evidence or was informally offered. Here it is clear that the party that produced the document did not intend to offer it in

evidence because no foundation had been or could be laid for its admission. And, certainly, the Petitioner had no reason for wanting in evidence a book which he did not think had ever been published by the Party. Neither party at the trial relied upon Exhibit 26 in any way.

Whether deemed to be in evidence or not, Exhibit 26 for identification has no probative value. It was not shown to have been an official publication of the Communist Party, nor to have been used in any way by the Petitioner.

In any event, Exhibit 26 was not one of the documents which the Government's attorney designated for the record, either in whole or in part. (See Government's designation, Rec. 902.) It is probable that the Government's attorney recognized that Exhibit 26 for identification was not in evidence. In consequence, no part of Exhibit 26 is in the record in this case.

The Government's case in this Court is built up to a large extent around this Exhibit 26. As we stated in our Reply brief: "If the quotations from, references to and arguments based on this Exhibit 26 were stricken from the Government's brief, it would be left in shreds". (Petitioner's reply brief, pp. 4, 5.) Reference is made at least 78 times in the Government's brief and the appendices thereof to this document.

A policeman makes a raid on October 16, 1928 (more than a year after Schneiderman's naturalization) and seizes several copies of the document. He testifies "this book was not widely circulated or sold" (Rec. 274). Schneiderman testified that he had never seen the book in question. The book is marked for identification, but for some reason is not offered in evidence. The record is devoid of proof that it was a party document; on the contrary Schneiderman testified that "I do not know of any work of this kind

being published by the Party" (Rec. 836). See page 7, *supra*. Nevertheless, solely because of his membership in the Communist Party all the pronouncements of that book are now attributed by the Government to Schneiderman.

On such a record as to such an Exhibit and basing its case to a large extent on that Exhibit, 12 years after his naturalization, the Government now seeks to sustain Schneiderman's conviction of the offense (which, while not criminal, is analogous thereto) of having obtained his naturalization illegally, for which offense he is to suffer the penalty of the deprivation of his citizenship. We submit that this would be a gross miscarriage of justice.

3. With respect to the excerpts from documents which are, in fact, in the record, to wit Exhibits 6-A to 18-A inclusive and with respect to Exhibit 27 printed in full.

We take the liberty of again calling the attention of the Court to the analysis of these documents in Appendix I of our Reply Brief, pages 26 to 30 inclusive. This analysis shows that only eight out of these fourteen exhibits were published prior to the petitioner's naturalization. Consequently, the rest are irrelevant and have no right to be in the record. Of these eight, Schneiderman was shown to have had familiarity with four only and the extent of that familiarity is pointed out in said Appendix I of our reply brief. It is further shown that even with respect to these prior-to-1927 exhibits, the Government's reliance is almost entirely upon excerpts from and references to pages therein, which are not parts of the record.

In summary, it thus appears, we submit, that the Government in this Court is seeking to sustain the cancellation of Schneiderman's citizenship on the basis of proof that is not in the record. The Government apparently, and we

think, intelligently, is of the view, that the proof actually in the record will not sustain the charges made.

The Illegality With Which Petitioner Is Charged.

It is manifest that the Government, in this Court, is seeking to sustain the cancellation of Schneiderman's naturalization on grounds of illegality with which he was not charged in the Complaint herein. Further, the conduct charged in the Complaint as constituting illegality was not a disqualification under the statute in force in 1927.

It was charged in paragraph IV of the Complaint that the petitioner's certificate of naturalization was "illegally procured" (Rec., p. 3) on the ground therein stated. It was also charged in paragraph VI that the certificate of naturalization was "fraudulently procured" (Rec., p. 4). No other charges were made.

To dispose of this last charge first, the alleged fraud was "that respondent concealed from said United States District Court * * * the facts that * * * he was a member of * * *" the Communist Party. The District Court in its corresponding finding of fact VI (Rec., p. 50) found the fact of such fraudulent concealment. Obviously, this was an unsound and unjustified finding, for the reason that there was no duty upon Schneiderman to reveal anything that he was not asked in the naturalization proceedings. There was no requirement that he reveal the fact that he was a Communist. There was absolutely no proof that there was any affirmative concealment on Schneiderman's part of this fact. His connection as a boy of 21 with the Communist Party, such as it was, was open; it was not furtive or secret. Consequently, the Circuit Court of Appeals in its consideration of the case, very properly refused to consider the ground of fraud (Rec., p. 912), and in this Court, with equal propriety,

the Government makes no contention that the certificate of naturalization was fraudulently procured.

We, therefore, come back to the charge of illegality found in paragraph IV of the complaint. This paragraph reads as follows (Rec., p. 3):

> "That said decree and certificate of naturalization were illegally procured and obtained in this: That respondent was not, at the time of his naturalization by said court, and during the period of five years immediately preceding the filing of his petition for naturalization, respondent had not behaved as, a person attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States, but in truth and in fact during all of said times, respondent was a member of and affiliated with and believed in and supported the principles of certain organizations then known as the Workers (Communist) Party of America and the Young Workers (Communist) League of America, whose principles were opposed to the principles of the Constitution of the United States and advised, advocated and taught the overthrow of the Government, Constitution and laws of the United States by force and violence."

The language of the above quoted paragraph is somewhat ambiguous. It is not entirely clear whether the verbs appearing in the last few lines of the paragraph, to wit, "advised, advocated and taught", refer back for their subject to the word "respondent" several lines back, or refer back to the word "organizations". We believe, however, that it is manifest that the verbs "advised, advocated" etc. refer back to the word "organization". In a practically similar sentence with parallel verbiage appearing in the affidavit of one Charles annexed as Exhibit 4 to the complaint, the similar words "teaches and advocates" refer

back to the word "organization" (see paragraph 4, Charles affidavit, Rec., p. 8). Further, in the finding of the District Court No. IV which is almost identical in language with paragraph IV of the complaint, and which we assume was drawn by the same Government counsel who drew the complaint, the words "advised, advocated and taught" refer back to the words "which organizations" (Rec., p. 49). It thus appears that the *sole charge of illegality* made against Schneiderman *was bad behavior* during the five year period previous to his naturalization, to wit, between the ages of 16 and 21, *which bad behavior consisted of the fact that he "was a member of* and affiliated with *and believed in* and supported the principles of" *the Communist Party.*

We have analyzed the opinions of the District Court and of the Circuit Court of Appeals at pages 10 and 11 of the Petitioner's main brief. It appears that the illegality on which the District Court relied was lack of actual attachment to the Constitution because of petitioner's membership in the Communist Party. This may be considered as the equivalent of a conclusion by the District Court of bad behavior for lack of attachment because of such membership.

When, however, the case came to the Circuit Court of Appeals the "illegality" which that court found to exist was not bad behavior, but a false oath. There being no charge in the complaint of illegality because of a false oath, the Circuit Court of Appeals, we submit, could not properly affirm the decree of the District Court on the basis of that determination.

In this Court, the Government apparently feels that it is on too weak ground to endeavor to sustain the cancellation on the basis only of the charge in the Complaint. The Government accordingly, in this Court, bases its claim of illegality on:

A. A false oath. (See Government's brief, paragraph A, pages 10 and 11 and argument in support thereof, Government's brief, pp. 28 to 52, inclusive.)

B. Bad behavior in the five year period prior to the petitioner's naturalization, claimed to be shown in three ways, *all based on his membership in the Communist Party:* (See Government's brief, pp. 11 to 16, and argument in support thereof, Government's brief, pp. 53 to 110.)

> (1) In that "it was a basic communist principle * * * accepted by him (petitioner) in his general subscription to Party principles, that Party members were bound to resort generally to illegal activities * * * *". (Government's brief, p. 12);
>
> (2) "That the Communist Party and the petitioner believed in, advocated, and taught the overthrow of this Government by force and violence." (Government's brief, p. 12), and
>
> (3) In that the petitioner "wholly disapproved of the principles embodied in it (the Constitution) and in our existing political structure. It was the view of the organization to which he belonged * * *." (Government's brief, p. 15.)

C. Membership in the Communist Party, as a party which disbelieved in, or was opposed to organized government. (See Government's brief, paragraph C, p. 16, and argument in support thereof, Government's brief, pp. 110 to 127).

The Complaint, as shown, did not charge illegality because of a false oath ("A" above), so consequently the Government's contention in this Court on that basis is without foundation in the Complaint and must be disregarded.

The Complaint, as shown, did not charge illegality because of any claim that the petitioner was a member of a party which disbelieved in or was opposed to organized

government ("C" above). Consequently, the Government's contention in this Court on that basis is without foundation in the Complaint and must be disregarded.

We believe that we have demonstrated, both in our main brief and in our reply brief, that the charges of a false oath and the charges of membership in an organization disbelieving in organized government, even if they had been made in the Complaint, were not sustained; but, not having been made, they afford no basis for the cancellation of Schneiderman's naturalization.

This leaves the question of bad behavior ("B" above). There was no charge in the Complaint of bad behavior arising from the claim that the members of the Communist Party were bound to resort generally to illegal activities (B (1) above). Consequently, the Government's contention in this Court on that basis is without foundation in the Complaint and must be disregarded. (This point is argued by the Government in its brief, pp. 11 and 12 and pp. 54 to 60 inclusive.)

The other two grounds of alleged misbehavior on the part of Schneiderman as a boy from 16 to 21, both based on his membership in the party, we have discussed at length in our main brief and our reply brief. They are, we submit, without substance in law or in fact.

As was stated by this Court in a somewhat parallel case: "Conviction upon a charge not made would be sheer denial of due process." *De Jonge* v. *Oregon*, 299 U. S. 353, 362.

Party Membership.

When all is said and done, every charge against Schneiderman is based upon the fact of his having been a member of the Communist Party. It is his *membership* in that party, that and that only, which, in reality, constitutes

the alleged illegality. That membership is thus made, *ipso facto*, the disqualification.

Illegality because of party membership is all that the Complaint herein charges. Views, imputed to petitioner because of party membership, is all that the proof established. Direct, immediate proof of personal holding of forbidden beliefs was lacking, or where present, was so flimsy as to be negligible. Direct proof of obnoxious personal behavior was entirely lacking; it is non-existent. The pattern of the proof was to establish Schneiderman's activity as a young member of the party, to introduce excerpts from documents and pamphlets claimed to be official writings of Communist Party members, mostly Russian, and then, because of his party membership, to impute the material in these documents to Schneiderman, even when he expressed his own personal views as being otherwise. Petitioner, it is claimed, could not make a true oath of allegiance—because he was a Communist Party member. Petitioner, it is claimed, had not behaved as one attached to the Constitution—because he was a Communist Party member. Petitioner, it is claimed, was disqualified because, as a Communist Party member, he belonged to a party alleged to disbelieve in organized government.

The trouble is that the Complaint charged, as its one ground of illegality, membership in one type of party only, to wit, a party which advocated the overthrow of the government by violence. But, in 1927, membership, as such, in such a party was not a disqualification. Congress, in the applicable 1906 statute, had dealt specifically with the subject matter of party membership as a disqualification and had specified one type of bad membership only, to wit, membership in a party which disbelieved in organized government, i. e., anarchists. Not until 1940 did Congress specify another type of bad party membership as a disqualification, to wit,

membership in a party advocating the overthrow of the government by violence. And then, Congress expressly stated that that disqualification should apply "hereafter". The Complaint herein, nevertheless, is based on the charge that membership in such a party was a disqualification in 1927. Even if proved, as it was not, a valid ground of disqualification was not established. See *Kessler* vs. *Strecker*, 307 U. S. 22.

Chapter 3592 of the Laws of 1906, 34 Stat. 597, which governed Schneiderman's naturalization, provided that "the petition shall set forth that he is not a disbeliever in or opposed to organized government, or a member of or affiliated with any organization or body of persons teaching disbelief in or opposed to organized government, * * *." The marginal note in the Statutes at Large shows the fact to be that this provision of the law was directed at "anarchists". While the Government contends that Communists teach disbelief in organized government (anarchy), the proof utterly fails to establish that contention. (See our discussion of this point, pages 21 to 24 of Petitioner's Reply Brief.)

Further, in 1940 in adopting a practically new naturalization statute, Congress for the first time provided that "No person shall *hereafter* be naturalized * * * (b) who * * * advocates or teaches, or who is a member of or affiliated with any organization * * * that believes in, advises, advocates or teaches—

> (1) the overthrow by force or violence of the Government of the United States * * *" (8 U. S. C. 705).

In making membership in 1927 in the Communist Party *ipso facto* a disqualification as being membership in a party which advocates the use of force, the courts below have added a new disqualification affecting naturalizations

in 1927, in a category, to wit, the category of party membership, with respect to which Congress has expressly dealt. Congress has provided that membership in a party that believes in the overthrow of the Government by force shall be a disqualification only after the year 1940. Nevertheless, in this case, the courts below have attempted *ex post facto* to make such membership a disqualification in the year 1927. Such *ex post facto* disqualification can not properly be added by the courts.

The statute under which the proceeding for the cancellation of the petitioner's citizenship has been brought, while of course not a criminal statute, is similar in nature thereto. The plaintiff is proceeded against by the U. S. District Attorney, charged with illegality in a dealing with the United States Government, and he suffers the drastic penalty of a deprivation of his citizenship. A statute of this character should be very strictly construed. The petitioner should not be held subject to such a severe penalty unless Congress has clearly so provided. The requirements of the law in such a situation should not be changed or modified either by administrative action or by judicial interpretation. *United States* vs. *Ginsberg*, 243 U. S. 472, see also *Vierick* vs. *U. S.*, 11 U. S. Law Week 4233; *Kessler* v. *Strecker*, 307 U. S. 22.

In conclusion, we have this astounding result. An American-born boy arriving at the age of twenty-one on the same day as the Petitioner could with propriety have been the president of the organization of which Schneiderman was an humble member, and such American-born boy could in time have run for the Presidency of the United States as a candidate of that organization. Yet Schneiderman, twelve years after naturalization, is to be deprived

of his citizenship because what was proper for this American-born boy, to wit, membership in the Communist party, was held a disqualification for Schneiderman, though Congress had not expressly so provided.

Respectfully submitted,

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